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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,193	03/10/2000	Sean Matthew Doherty	169.1649	4782
5514	7590	07/06/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			YOUNG, JOHN L	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/523,193

Applicant(s)

DOHERTY, SEAN MATTHEW

Examiner

John L Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-11, 14-24, 26 and 28-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-11, 14-24, 26 and 28-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JOHN LEONARD YOUNG, ESQ.
PRIMARY EXAMINER

6-22-2007

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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SECOND NON-FINAL ACTION ON (CPA)

(Paper# 19)

1. **An action on the CPA follows:**

STATUS OF CLAIMS

2. Claims 1, 12, 13, 25 & 27 are canceled by Applicant.
3. Claims 2-11, 14-24, 26 & 28-33 are pending.

DRAWINGS

4. This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM OFFECTION

5. Claim 20 is objected because of a minor typographical error in line 2.

CLAIM REJECTIONS — 35 U.S.C. §101

35 U.S.C. §101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

6. Claims 2-11, 14-24, 26, 29-30 & 32 are rejected under 35 U.S.C. 101, because said claims are directed to non-statutory subject matter.

As per claims 14, 26, 29 & 32, as drafted said claim is not limited by language within the technological arts (see *In re Waldbaum*, 173 USPQ 430 (CCPA 1972); *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974) also see MPEP 2106 IV 2(b) even though said claim is limited by language to a useful, concrete and tangible application (See *State Street v. Signature financial Group*, 149 F.3d at 1374-75, 47 USPQ 2d at 1602 (Fed Cir. 1998); *AT&T Corp. v. Excel*, 50 USPQ 2d 1447, 1452 (Fed. Cir. 1999) Note: it is well settled in the law that “[although] a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415, F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the

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specification to impart limitations to the claims that are not recited in the claims." (See MPEP 2173.05(q)). The claims at issue suffer from undue breadth.

Claims 2-11 & 30 are rejected pursuant to 35 U.S.C. §101 for the same reasons as claim 29.

Claims 15-24 are rejected pursuant to 35 U.S.C. §101 for the same reasons as claim 14.

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 2-11, 14-24, 26 & 28-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over USING MICROSOFT[®] PROJECT 4: for Windows[™] (1994) (herein referred to as ("PROJECT").

As per claims 2-11, PROJECT (pp. 64-70, FIG. 2.30, FIG. 2.31; p. 80, FIG. 3.5; p. 82, FIG. 3.6; p. xi; p. 84; pp. 86-90, FIG. 3.7, FIG. 3.8, FIG. 3.9, FIG. 3.10, FIG.

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3.11; p. 93; p. 97, FIG. 4.1; pp. 103-104; p. 107, FIG. 4.8, FIG. 4.9; p. 106, FIG. 4.7, and p. 109) shows the method of claim 29.

PROJECT lacks explicit recitation of the elements and limitations of claims 2-11.

"Official Notice" is taken that both the concept and the advantages of the elements and limitations of claims 2-11 were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include the selection of such elements and limitations as found in claims 2-11 because selection of such features as shown in PROJECT would have provided means *"to guide . . . [one] through all phases of project management."* (See PROJECT (p. 2, ll. 21-21)).

As per claim 14, PROJECT (pp. 64-70, FIG. 2.30, FIG. 2.31; p. 80, FIG. 3.5; p. 82, FIG. 3.6; p. xi; p. 84; pp. 86-90, FIG. 3.7, FIG. 3.8, FIG. 3.9, FIG. 3.10, FIG. 3.11; p. 93; p. 97, FIG. 4.1; pp. 103-104; p. 107, FIG. 4.8, FIG. 4.9; p. 106, FIG. 4.7, and p. 109) shows: "A method of displaying items of information on a display apparatus comprising a display unit and a user interface, each item of information having an associated priority which is a function of time . . . scheduling items of information in accordance with values of the priorities . . . generating a user interrupt in response to a user interacting with the user interface . . . clearing the scheduled items of information in response to the user interrupt . . . estimating a time when the user will finish interacting with the user interface . . .

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activating a user interrupt in response to user input; and . . . rescheduling items of information in accordance with the values of the priorities at the estimated time . . . repeating steps . . . if the user is still interacting with the user interface at the estimated time; and . . . displaying the scheduled information according to priority , if the user is not interacting with the user interface at the estimated time.”

PROJECT lacks an explicit recitation of “scheduling items of information in accordance with values of the priorities. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of PROJECT (p. 82, FIG. 3.6; and p. xi) which shows “*Schedule. . . New Tasks Start On: . . . Tasks Are Critical If Slack. . . Autolink Inserted or Moved Tasks . . . Updating Task Status Updates Resource Status. . .*” would have been selected in accordance with of “scheduling items of information in accordance with values of the priorities. . . .” because selection of such features would have provided means “to guide . . . [one] through all phases of project management.” (See PROJECT (p. 2, ll. 21-21)).

As per claims 15-24, PROJECT (pp. 64-70, FIG. 2.30, FIG. 2.31; p. 80, FIG. 3.5; p. 82, FIG. 3.6; p. xi; p. 84; pp. 86-90, FIG. 3.7, FIG. 3.8, FIG. 3.9, FIG. 3.10, FIG.

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3.11; p. 93; p. 97, FIG. 4.1; pp. 103-104; p. 107, FIG. 4.8, FIG. 4.9; p. 106, FIG. 4.7, and p. 109) shows the method of claim 14.

PROJECT lacks explicit recitation of the elements and limitations of claims 15-24.

"Official Notice" is taken that both the concept and the advantages of the elements and limitations of claims 15-24 were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include the selection of such elements and limitations as found in claims 15-24 because selection of such features as shown in PROJECT would have provided means *"to guide . . . [one] through all phases of project management."* (See PROJECT (p. 2, ll. 21-21)).

Independent claim 26 is rejected for substantially the same reasons as independent claim 14.

Independent claim 28 is rejected for substantially the same reasons as independent claim 14.

Independent claim 29 is rejected for substantially the same reasons as independent claim 14.

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As per claims 30-31, PROJECT (pp. 64-70, FIG. 2.30, FIG. 2.31; p. 80, FIG. 3.5; p. 82, FIG. 3.6; p. xi; p. 84; pp. 86-90, FIG. 3.7, FIG. 3.8, FIG. 3.9, FIG. 3.10, FIG. 3.11; p. 93; p. 97, FIG. 4.1; pp. 103-104; p. 107, FIG. 4.8, FIG. 4.9; p. 106, FIG. 4.7, and p. 109) shows the method of claim 29.

PROJECT lacks explicit recitation of the elements and limitations of claims 30-31.

“Official Notice” is taken that both the concept and the advantages of the elements and limitations of claims 30-31 were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include the selection of such elements and limitations as found in claims 30-31 because selection of such features as shown in PROJECT would have provided means *“to guide . . . [one] through all phases of project management.”* (See PROJECT (p. 2, ll. 21-21)).

Independent claim 32 is rejected for substantially the same reasons as independent claim 14.

Independent claim 33 is rejected for substantially the same reasons as independent claim 14.

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RESPONSE TO ARGUMENTS

8. Applicant's response (paper#18, filed 3/4/2004) has been considered in view of the prior Office Action but is not persuasive for the following reasons: Applicant's arguments are moot based on new grounds of rejection introduced by the Examiner in the instant Office action.

CONCLUSION

9. Any response to this action should be mailed to:

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh Floor Receptionist
Crystal Park V

Serial Number: 09/523,193

(Doherty)

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2451 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-

3900.

John L. Young

Primary Patent Examiner

JOHN LEONARD YOUNG, ESQ.
PRIMARY EXAMINER

June 22, 2004